

## SENATE BILL NO. 7

INTRODUCED BY BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AND REVISING DEFINITIONS OF CERTAIN LOCAL, STATE, TRIBAL, AND FEDERAL OFFICIALS TO PROVIDE EXEMPTIONS UNDER LOBBYING LAWS; REVISING DEFINITIONS OF "LOBBYING", "LOBBYING FOR HIRE", AND "PAYMENT TO INFLUENCE OFFICIAL ACTION"; EXTENDING THE TIME TO HEAR AN APPEAL FOR A DENIED LICENSE TO LOBBY; PROVIDING EXEMPTIONS TO PAYMENT OF THE LOBBYIST LICENSE FEE; AMENDING SECTIONS 5-7-102 AND 5-7-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 5-7-102, MCA, is amended to read:

**"5-7-102. Definitions.** The following definitions apply in this chapter:

(1) "Appointed state official" means an individual who is appointed:

(A) to public office in state government by the governor or the chief justice of the Montana supreme court and who is subject to confirmation by the Montana senate; OR

(B) BY THE BOARD OF REGENTS OF HIGHER EDUCATION TO SERVE EITHER AS THE COMMISSIONER OF HIGHER EDUCATION OR AS THE CHIEF EXECUTIVE OFFICER OF A CAMPUS OF THE MONTANA UNIVERSITY SYSTEM; OR

(C) BY THE BOARD OF TRUSTEES OF A COMMUNITY COLLEGE TO SERVE AS PRESIDENT.

~~(1)~~(2) "Business" means:

(a) a holding or interest whose fair market value is greater than \$1,000; in a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

(b) present or past employment from which benefits, including retirement allowances, are received.

~~(2)~~(3) "Commissioner" means the commissioner of political practices.

~~(3)~~(4) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(5) "Elected federal official" means a person elected to a federal office, including but not limited to a

member of the United States senate or house of representatives. The term includes an individual appointed to fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but who has not yet been sworn in.

~~(4)(6)~~ "Elected local official" means a public official an elected officer of a county, a consolidated government, an incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill the unexpired term of an elected local official and an individual who has been elected to a local office but who has not yet been sworn in.

(7) "Elected state official" means an individual holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to legislators, public service commissioners, and district court judges but not including legislators for the purposes of this chapter. The term includes an individual appointed to fill the unexpired term of an elected state official and an individual who has been elected to a statewide office but who has not yet been sworn in. The term "official-elect" also applies to the offices.

(8) "Elected tribal official" means an elected member of a tribal council or other elected office filled by a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected tribal official and an individual who has been elected to a tribal office but who has not yet been sworn in.

~~(5)(9)~~ "Individual" means a human being.

(10) "Legislator" means an individual holding public office as a representative or a senator in the Montana legislature. The term includes an individual who has been elected to the legislature but who has not yet been sworn in.

~~(6)(11)~~ (a) "Lobbying" means:

~~(a)(i)~~ the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members of the legislature by a person other than a member of the legislature or a public official; and

~~(b)(ii)~~ the practice of promoting or opposing official action by any public official.

(b) The term does not include actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed by a legislator, a public official, an elected local official, an elected federal official, or an elected tribal official while acting in an official governmental capacity.

~~(7)(12)~~ "Lobbying for hire" includes activities of the officers, agents, attorneys, or employees of a principal who are paid, reimbursed, or retained by the principal and whose duties include lobbying. If an individual is reimbursed only for his personal living and travel expenses, which together are less than \$1,000

~~per calendar year, that individual is not considered to be lobbying for hire to lobby.~~

~~(8)(13)~~ (a) "Lobbyist" means a person who engages in the practice of lobbying for hire.

(b) Lobbyist does not include:

(i) an individual acting solely on ~~his~~ the individual's own behalf; or

(ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a public official on behalf of ~~his~~ the lobbyist's principal.

(c) Nothing in this ~~section~~ subsection (13) deprives an individual not lobbying for hire of the constitutional right to communicate with public officials.

~~(9)(14)~~ "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value.

~~(10)(15)~~ "Payment to influence official action" means any of the following types of payment:

(a) direct or indirect payment to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement for expenses, ~~excluding personal living expenses~~; or

(b) payment in support of or for assistance to a lobbyist or a lobbying activity, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist.

~~(11)(16)~~ "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision of state or local government, or other organization or group of persons.

~~(12)(17)~~ "Principal" means a person who employs a lobbyist.

~~(13)(18)~~ "Public official" means an ~~individual, elected or appointed, elected state official or an appointed~~ state official acting in ~~his~~ an official capacity for the state government. The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.

~~(14)(19)~~ "Unprofessional conduct" means:

(a) violating any of the provisions of this chapter;

(b) instigating action by a public official for the purpose of obtaining employment;

(c) attempting to influence the action of a public official on a measure pending or to be proposed by:

(i) promising financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or

(d) attempting to knowingly deceive a public official with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a public official."

**Section 2.** Section 5-7-103, MCA, is amended to read:

**"5-7-103. Licenses -- fees -- eligibility -- waiver.** (1) Any adult of good moral character who is otherwise qualified under this chapter may be licensed as a lobbyist. The commissioner shall provide a license application form. The application form may be obtained from and must be filed in the office of the commissioner. Upon approval of the application and receipt of the license fee by the commissioner, a license must be issued that entitles the licensee to practice lobbying on behalf of one or more enumerated principals. The license fee is \$150 for each lobbyist except as provided in subsection (5) or unless the fee is waived for hardship reasons under this section. Each license expires on December 31 of each even-numbered year or may be terminated at the request of the lobbyist. A lobbyist who believes that payment of the license fee may constitute a hardship may apply to the commissioner for a waiver of the fee required by this section. The commissioner may waive all or a portion of the license fee upon proof by the lobbyist that payment of the fee constitutes a hardship.

(2) (a) Except as provided in subsection (2)(b), an application may not be disapproved without affording the applicant a hearing. The hearing must be held and the decision entered within ~~40~~ 20 business days of the date of the filing of the application, not including the date on which the application is filed.

(b) An application may not be approved if a principal has failed to file reports required under 5-7-208.

(3) The fines collected under this chapter must be deposited in the state treasury.

(4) The commissioner shall deposit the license fee provided for in subsection (1) as follows:

(a) \$50 in the general fund; and

(b) \$100 in the state special revenue account provided for in 5-11-1112.

(5) A lobbyist who receives from one or more principals payments to lobby that total less than \$1,000 in a calendar year does not have to pay the license fee established in subsection (1). The commissioner shall develop a form to be signed by the lobbyist and the principal or principals certifying that the payments total less than \$1,000 for a calendar year. This subsection only exempts the lobbyist from paying the license fee. A lobbyist is required to file an application to lobby under this section and the principal or principals shall file all reports required under this chapter and rules adopted by the commissioner.

~~(5)(6)~~ The commissioner may adopt rules to implement the waiver provisions of ~~subsection~~ subsections (1) and (5)."

NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a

1 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
2 band of Chippewa.

3

4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

5 - END -